

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

CRP.No. 273 of 2006(A)

CC.167/1973 of TALUK LAND BOARD, OTTAPALAM

.....

REVN. PETITIONER:

A.KUNHILAKSHMI @ LAKSHMI BAI,
W/O.LATE MANOMOHANAN UNNI, RESIDING AT
BASK 2425, PARIPOORNA ESTATE, S.K.MUTHOOR,
COIMBATORE-641 010.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
CHIEF SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM.
2. TALUK LAND BOARD, OTTAPPALAM,
REPRESENTED BY ITS CHAIRMAN, OTTAPPALAM.
3. TAHSILDAR, OTTAPPALAM.
4. TAHSILDAR, THALAPPALLY.
5. TAHSILDAR, CHITTUR.
6. TAHSILDAR, PERINTHALMANNA.

BY GOVERNMENT PLEADER SRI THOMAS JOHN AMBOOKEN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 12/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

C.R.P.NO.273/2006

ORDER ON CMP.NO.1282/2006 IN C.R.P.NO.273/2006

DISMISSED

12/7/2007

Sd/- P.R.RAMAN, JUDGE.

P.R.RAMAN J.

C.R.P.No.273 OF 2006

Dated this the 12th day of July, 2007

O R D E R

This revision petition is filed against the order dated 22/5/2000 passed by the Taluk Land Board, Ottapalam in C.C.No.167/73 by which the petitioner was asked to surrender an extent of 8.99 acres as excess land, which is the total extent comprised in two survey numbers (7.33 acres in Sy.No.339/2 and 1.66 acres in Sy.No.327/2). Aggrieved thereby this revision is filed.

2. The points that pressed at the time of hearing against the order passed by the Taluk Land Board are considered as follows:

The claim of the petitioner herein is regarding an extent of 20.53.757 acres as forest land. It was found that 34.34 acres comprised in Sy. Nos. 120, 8/1 & 8/2 of Ananganadi Village were patta lands. The contention of the petitioner is that if the entire land is a forest land, any extent forming part of the larger extent cannot be included for the purpose of determining the extent of the ceiling area, as it is an exempted category. According to him, this being a forest land is liable to be excluded. I have considered this

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submission. According to the report filed before the Taluk Land Board, out of the total extent of 300.95 acres of land comprised in various survey numbers except 34.34 acres, which was a patta land, the balance extent alone was in the custody of Forest Department. Evidently therefore this patta land cannot be treated as forest land. No materials were also placed to show that this is a forest land. Only the share of the petitioner of an extent of 2.62 acres is included in his account. I do not find any illegality or error in including this extent. This objection is therefore overruled.

3. The next submission was regarding the claim for exclusion of an extent of 40 cents as a burial ground comprised in Sy.No.339/2. The total extent in the survey number is 7.63 acres. His claim of exclusion was 30 cents towards pathway and 40 cents towards burial ground. The Taluk Land Board while discussing the point excluded 30 cents as a pathway leading to the river side and burial ground and it did not consider as to whether 40 cents in respect of which it is claimed to be a burial ground and if actually so, whether it is excludable. Hence, there will be a direction to the Taluk Land Board to reconsider the claim for exclusion of 40 cents as a burial ground, after getting a report from the Village Officer regarding as to whether 40 cents out of 7.63 acres is a public burial

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ground and if so, whether an extent of 40 cents is excludable from the account of the declarant. It was then contended that regarding the hospital and car shed in Sy.Nos.1022/1 and 1022/3 only the share of an extent of 0.03.000 acres was exempted, out of the total extent of 0.62 acres. But while discussing the point, the Taluk Land Board found that out of 0.62 acres, which is a hospital and car shed, the petitioner had only a right over 0.03.000 acres and that alone is included in his account also. If so, the balance having been not his own account, the question of exemption of the balance extent does not arise. The finding is perfectly correct. No other point is argued.

4. The petitioner has a case that some new rights have been conferred based on the amendment brought out to the Kerala Land Reforms Act, which came into force much later to the order of the Taluk Land Board. As such he had no opportunity to claim the relief based on such amended provision. I make it clear that it is open to the petitioner to raise such claim, if any, based on the amended provision in which case the Taluk Land Board shall consider such claim, while disposing of the matter afresh.

In the result, the case is remanded to the Taluk Land Board so as to

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consider the claim for exemption of an extent of 40 cents as a burial ground as indicated above. In all respects, the order of the Taluk Land Board is confirmed.

Sd/-
P . R . RAMAN ,
Judge .

kcv .